

REMARKS

The present Response is in response to the Examiner's Office Action mailed May 5, 2006. Claims 22-33 remain pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

I. EXAMINER'S INTERVIEW

Applicants express their appreciation to the Examiner for conducting an interview with Applicants on 2 August 2006. In response to the Interview Summary mailed on 10 August 2006, Applicants concur with the substance of the interview recited therein.

II. PRIOR ART REJECTIONS

A. Rejection Under 35 U.S.C. §102(e)

The Examiner rejects claims 22-24, 26 and 29-32 under 35 U.S.C. § 102(e)¹ as being anticipated by *O'Brien et al.* (United States Patent No. 6,560,255). Applicants respectfully note that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if *each and every element as set forth in the claim is found*, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure ("MPEP")* § 2131. Because *O'Brien* does not teach or suggest each and every element of the rejected claims, Applicants respectfully traverse this rejection in view of the following remarks.

By way of example, pending independent claim 22, which is directed to a “test and configuration system, specifically requires, *inter alia*, the presence of an:

an optical signal analyzer configured and arranged to communicate with an optoelectronic transceiver that is thermally coupled with the temperature control device

and that the recited “optical signal analyzer” be interconnected with a “host system”:

a host system configured for communication with the temperature control device, any optoelectronic transceivers that are thermally coupled with the temperature control device, and with the optical signal analyzer,

In direct contrast, and as noted and acknowledged by the Examiner during the interview, *O'Brien* does not teach the presence or use of an “optical signal analyzer.” In fact, the stated objective of *O'Brien* in providing a test system is to avoid the use of any type of optical signal analyzers:

¹ Because *O'Brien* is only citable under 35 U.S.C. § 102(e) Applicants do not admit that *O'Brien* is in fact prior art to the claimed invention but reserve the right to swear behind *O'Brien* if necessary to remove it as a reference.

The prior art discloses methods that make use of wavemeters or “scanning type” ***optical spectrum analyzers*** to characterize wavelength selectable laser products. These instruments create a look-up table by comparing their measured value to the internal etalon response. The look up tables define the channels upon which the wavelength of the product will be locked. However, ***using scanning type wavemeters or optical spectrum analyzers is time consuming, on a per unit basis, and cannot be made practical for use in high volume manufacturing.***

O'Brien, DESCRIPTION OF THE RELATED ART, Column 1, lines 32-41 (emphasis added).

Hence, *O'Brien* teaches a test system that purposefully **does not** utilize as a component any type of optical signal analyzer as is currently claimed. Thus, the assertion in the Office Action at the bottom of page 2 that *O'Brien* teaches an “optical signal analyzer” at column 1, lines 32-41 is clearly wrong. As demonstrated, that specific section of *O'Brien* instead emphasizes that the use of an optical signal analyzer is not desirable. The rest of the *O'Brien* reference then proceeds to teach and disclose a system that does not utilize such an analyzer.

Since *O'Brien* does not teach the system being claimed in this application, Applicants respectfully request that the rejection of independent claim 22 under 35 U.S.C. § 102(e) be withdrawn. Moreover, for at least this reason, each of the claims depending from claim 22 -- namely, claims 23-24, 26 and 29-32 – are also not anticipated and should also be allowed. Withdrawal of the rejection of those claims is also respectfully requested.

B. Rejection Under 35 U.S.C. § 103

The Examiner also rejects claims 25 and 27-28 under 35 U.S.C. § 103 as being unpatentable over *O'Brien* in view of *Chieng et al.* (U.S. Patent No. 6,862,302). However, insofar as each of these claims depends from independent claim 22, they too require the presence of an “optical signal analyzer.” Since this rejection relies on the teachings of *O'Brien*, then the Examiner has failed to state a *prima facie* case of obviousness for at least the reasons stated above since *Chieng* does not satisfy the deficiencies of *O'Brien*. As such, Applicants respectfully traverse the Examiner’s rejection for obviousness on the grounds that the references – either individually or in combination – fail to teach or suggest each and every element of the

rejected claims for at least the reasons previously stated. Applicants respectfully request that the rejection be withdrawn.

CONCLUSION

In view of the foregoing, and consistent with the tentative agreement reached during the Examiner Interview, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 6th day of November, 2006.

Respectfully submitted,

/Eric L. Maschoff/Reg. No. 36,596

ERIC L. MASCHOFF
Registration No. 36,596
Attorney for Applicant
Customer No. 022913
Telephone: (801) 533-9800